

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

JUAN M. RIVERA-ORTIZ,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO,
et al.,

Defendants.

Civil No. 09-2073 (JAF)

OPINION AND ORDER

Plaintiff, Juan M. Rivera-Ortiz, brings this action under 42 U.S.C. § 1983 against Defendants, Gloria E. Ortiz-Martínez, María Meléndez-Rivera, and Edwin Zayas-Figueroa (“Movants”), alleging violations of his constitutional rights arising from an alleged delay in the resolution of his parole hearing. (Docket No. 19.) Movants request summary judgment, asserting quasi-judicial immunity and Plaintiff’s failure to state a claim upon which relief can be granted. (Docket No. 40.) Plaintiff opposes. (Docket No. 50.)

I.

Factual and Procedural Summary

On October 9, 2009, while still an inmate at Puerto Rico’s Ponce Correctional Institute, Plaintiff filed the case before us. (Docket No. 19.) Plaintiff alleged that the Junta de Libertad Bajo Palabra (“Parole Board”) held his parole hearing on January 30, 2009, but subsequently failed to issue a disposition. (Id.) Plaintiff named as defendants the Commonwealth of Puerto

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1 Rico, the Parole Board, and the individual members of the Parole Board. He sought both an
2 order releasing him from custody and \$75,000 in damages. (Id.)

3 On April 15, 2010, we issued an opinion and order dismissing, on grounds of sovereign
4 immunity, all claims against the Commonwealth of Puerto Rico, the Parole Board, and the
5 individual Parole Board members in their official capacities. (Docket No. 25.) Movants now
6 seek summary judgment on the remaining claims against them in their personal capacities.
7 (Docket No. 40.)

8 II.

9 **Rule 56 Summary Judgment**

10 We grant a motion for summary judgment “if the pleadings, the discovery and disclosure
11 materials on file, and any affidavits show that there is no genuine issue as to any material fact
12 and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). A factual
13 dispute is “genuine” if it could be resolved in favor of either party and “material” if it potentially
14 affects the outcome of the case. Calero-Cerezo v. U.S. Dep’t of Justice, 355 F.3d 6, 19 (1st Cir.
15 2004). In evaluating a motion for summary judgment, we view the record in the light most
16 favorable to the nonmovant. Adickes v. S.H. Kress & Co., 398 U.S. 144, 157 (1970).

17 The movant carries the burden of establishing that there is no genuine issue as to any
18 material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986). “Once the moving party has
19 made a preliminary showing that no genuine issue of material fact exists, the nonmovant must
20 ‘produce specific facts, in suitable evidentiary form, to establish the presence of a trialworthy

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1 issue.” Clifford v. Barnhart, 449 F.3d 276, 280 (1st Cir. 2006) (quoting Triangle Trading Co.
2 v. Robroy Indus., Inc., 200 F.3d 1, 2 (1st Cir. 1999)). The nonmovant “may not rely merely on
3 allegations or denials in its own pleading; rather, its response must . . . set out specific facts
4 showing a genuine issue for trial.” Fed. R. Civ. P. 56(e)(2).

5 III.

6 Analysis

7 Because Plaintiff appears pro se, we construe his filings more favorably than we would
8 those drafted by an attorney. See Erickson v. Pardus, 551 U.S. 89, 94 (2007). Nevertheless,
9 Plaintiff’s pro se status does not excuse him from complying with procedural and substantive
10 law. Ahmed v. Rosenblatt, 118 F.3d 886, 890 (1st Cir. 1997).

11 Plaintiff seeks \$75,000 in damages for the alleged violations of his rights. Movants
12 assert that they are immune from damages claims brought against them in their personal
13 capacities, citing Johnson v. Rhode Island Parole Board Members, 815 F.2d 5 (1st Cir. 1987).
14 In Johnson, the First Circuit held that, because of their quasi-judicial role, members of the
15 Rhode Island Parole Board were entitled to absolute immunity from suit for all actions taken
16 within the scope of their official duties. See id. at 6–8. The First Circuit joined the Ninth
17 Circuit in qualifying that absolute immunity would be granted only for actions within the scope
18 of a parole board member’s official duties, “i.e., in processing parole applications and deciding
19 whether to grant, deny, or revoke parole.” Id. at 6.

